

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 11, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SCOTT S.

Plaintiff,

v.

KILOLO KIJAKAZI,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

NO: 4:22-CV-05002-LRS

ORDER GRANTING PLAINTIFF'S
MOTION FOR ATTORNEY'S
FEES PURSUANT TO 42 U.S.C.
§ 406(b)

BEFORE THE COURT is Plaintiff's motion for an award of attorney's fees pursuant to 42 U.S.C. § 406(b). ECF No. 22. The Plaintiff is represented by Attorney D. Chad Hatfield. The Defendant is represented by Special Assistant United States Attorney Edmund Darcher.

On August 11, 2022, pursuant to the stipulation of the parties, the Court granted Plaintiff's motion for summary judgment and remanded to the

ORDER - 1

1 Commissioner for reconsideration. ECF Nos. 15, 16. After a favorable decision
2 on remand, Plaintiff was awarded benefits. ECF No. 22, 22-1. Past due benefits
3 awarded total \$136,480.90. *See* ECF No. 22-1 at 3.

4 Plaintiff now moves for an award of attorney fees pursuant to 42 U.S.C. §
5 406(b), which awards private attorney fees only after an award of past due benefits
6 has been made. An award under § 406(b) is for work before the Court and cannot
7 exceed 25% of the claimant's back pay award. The amount of the award must be
8 reasonable in light of the character of representation, the result received, and the
9 size of benefits in comparison to the time spent by counsel. *See Gisbrecht v.*
10 *Barnhart*, 535 U.S. 789 (2002).

11 Plaintiff's counsel has filed with this Court a copy of the contingent fee
12 agreement with the Plaintiff and an itemized billing statement for work on this
13 case. ECF Nos. 22-3, 22-44. The agreement provides counsel may recover 25%
14 of past due benefits, which is \$34,120.23 in this case. The Government "neither
15 supports nor opposes" the amount of the request. ECF No. 25 at 2. The Court,
16 having reviewed the contingency fee agreement and the itemized billing
17 statements, finds that the § 406(b) fee request in the amount of \$34,120.23 for
18 work performed at the federal court level is reasonable.

19 EAJA fees were previously awarded in the amount of \$7,893.10 (Case No.
20 4:17-cv-5199-JTR, ECF No. 35); \$3,898.17 (Case No. 4:20-cv-5024-LRS, ECF
21 No. 26); and \$4,159.29 (ECF No. 21). After offset of previously awarded EAJA


1 fees totaling \$15,950.56, the net § 406(b) attorney fee due is \$18,169.67.

2 Accordingly,

3 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Attorney Fees
4 Pursuant to 42 U.S.C. § 406(b), **ECF No. 22**, is **GRANTED** and the Social
5 Security Administration is directed to release from Plaintiff's past due benefits in
6 accordance with agency policy attorney fees payable to Plaintiff's attorney, Chad
7 Hatfield, in the amount of \$18,169.67, which amount includes an offset for
8 previously awarded EAJA fees. Attorney fees shall be mailed or otherwise
9 transmitted to Chad Hatfield, Hatfield Law, PLLC, 8131 W. Klamath Ct., Ste. D,
10 Kennewick, WA 99336.

11 The District Court Executive is hereby directed to enter this Order, provide
12 copies to counsel, and **CLOSE** the file.

13 **DATED** December 11, 2023.

14 
15 _____
16 LANNY R. SUKO
17 Senior United States District Judge
18
19
20
21